

**CULPABLE HOMICIDE (SCOTLAND)**  
**BILL**  
**CONSULTATION**  
**PAPER**

**STYLE TRADE UNION CONSULTATION RESPONSE**

## QUESTIONS

To assist persons in preparing a response to this Consultation Paper, here are a few questions which they may wish to consider in addition to any other comments which you may wish to make about the consultation paper as a whole, or contents within. You do not have to answer all the questions, with only the questions you have answered considered in the final analysis:

### About You

Q1: Are you responding as:

- an individual – in which case go to Q2A
- ✓ on behalf of an organisation? – in which case go to Q2B

*This response was carried out by 3 trade union reps, Andy McQuade, Jim Gallagher and Peter Docherty*

Q2A: Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose “Member of the public”.)

- Politician (MSP/MP/peer/MEP/Councillor)
- Professional with experience in a relevant subject
- Academic with expertise in a relevant subject
- Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

Q2B. Please select the category which best describes your organisation:

- Public sector body (Scottish/UK Government or agency, local authority, NDPB)
- Commercial organisation (company, business)
- ✓ Representative organisation (trade union, professional association)
- Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
- Other (e.g. clubs, local groups, groups of individuals, etc.)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

Q3. Please choose one of the following:

- I am content for this response to be published and attributed to me or my organisation
- I would like this response to be published anonymously
- I would like this response to be considered, but not published (“not for publication”)

If you have requested anonymity or asked for your response not to be published, please give a reason. **(Note: your reason will not be published.)**

Q4. Please provide your name or the name of your organisation. **(Note: The name will not be published if you have asked for the response to be anonymous or “not for publication”.)**

Name:TUC Occupational health and safety course

Please provide a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. **(Note: We will not publish these contact details.)**

Q5. Data protection declaration

- I confirm that I have read and understood the privacy notice attached to this consultation which explains how my personal data will be used.

## Aim and approach

Q6. Which of the following best expresses your view of the proposed Bill?

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

Q7. What do you think would be the main practical advantages and disadvantages of the proposed Bill?

*The advantage of the question is finding the people or responsible persons properly prosecuted and the families getting closure.*

Q8. Do you have any further comment to make on the need for legislation of this type as detailed in this consultation?

*We believe the bill should have a fair and balanced consultation without horrendous opposition to these proposals.*

Q9. Do you have any comments to make on the proposals outlined which suggest that there be two different statutory kinds of culpable homicide – culpable homicide by causing death recklessly and by gross negligence?

*We believe that recklessness and negligence should be treated as culpable homicide as the individuals accountability for knowing or aware of his actions under health and safety legislation.*

Q10. Do you have any comments on the range of organisations and office holders who should be defined by the Bill?

*All Stakeholders should be held accountable weather they are organisations or individuals and punishable accordingly under law.*

Q11. Do you have any comment to make on the provisions applying the new offences to Ministers, civil servants and Crown bodies in the same way as they apply to natural persons and organisations?

*We believe the ministers, crown bodies and civil servants should not be immune from any prosecution ensuring that justice prevail and seen to be done.*

### **Culpable homicide by causing death recklessly**

- Q12. Do you have any comment to make on the way in which causing death recklessly is defined in the proposal.

*Our line of thinking is in line with the Scottish hazards that ministers, and crown officials should be held accountable for their actions in a court of law and nobody should be immune to that law.*

- Q13. Do you have any comment to make on the proposal that organisations would be responsible for the actions of their employees for this offence?

*we are fully supportive of this proposal as it strikes a fair and balanced approach to make the organization or individual responsible.*

- Q14. Do you have any comments on the inclusion of aggregation and how it will work in practice?

*All Organisations may they be large or small should be held responsible and accountable whether in the past or present regarding their actions, point and case being the stopline tragedy where lives were lost due to the incompetencies of the organization.*

### **Culpable homicide by gross negligence**

- Q15. Do you have any comment to make on proposals to re-introduce culpable homicide by gross negligence into the law in Scotland?

*We fully support the proposals by Scottish hazards to reintroduce culpable homicide by gross negligence to criminal law resolving the issue of aggression which was evident in Transco.*

- Q16. Do you have any comment to make on the proposals to define what is meant by that offence where it is committed by a natural person?

*As a health and safety representative we fully endorse what the Scottish hazards have proposed and agree with the definition of how the offense would apply to a natural person.*

Q17. Do you have any comment to make on the definitions of “duty of care” and “gross breach”?

*As health and safety reps, we agree that the definition of duty of care falls on the natural person or organization and fully support the Scottish hazards established legal principles.*

## Sanctions

Q18. Do you have any comment to make on the penalties which may be imposed if a conviction is successful under a new law?

*We believe that the penalties available to the Judge on conviction must reflect the moral opprobrium that the offence reflects. We believe that the victims must see justice served, we believe that a fair, ballanced and consistant approach should be the way forward and keep us in line with Scottish, English and Welsh law, and the Scottish sentencing council should follow the path of the system south of the border.*

## Financial implications

Q19. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(a) Government and the public sector

Significant increase in cost

Some increase in cost

Broadly cost-neutral

Some reduction in cost

Significant reduction in cost

Unsure

(b) Businesses

Significant increase in cost

Some increase in cost

Broadly cost-neutral

Some reduction in cost

Significant reduction in cost

Unsure

(c) Individuals

- Significant increase in cost
- Some increase in cost
- ✓  Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

Please explain the reasons for your response.

Q20. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

*Families should not loose out on the financial burden due to the loss of loved ones.*

**Equalities**

Q21. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, race, religion and belief, sex, sexual orientation?

- Positive
- Slightly positive
- ✓  Neutral (neither positive nor negative)
- Slightly negative
- Negative
- Unsure

Please explain the reasons for your response.

*We see neither positive or negative impacts arising from these proposals.*

Q22. In what ways could any negative impact of the Bill on equality be minimised or avoided?

*We follow Scottish hazards lead that we don't see any impact arising from the Bill.*

**Sustainability**

Q23. Do you consider that the proposed bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

- Yes
- No
- Unsure

Please explain the reasons for your response.

We agree that there may not be any disproportionate impact from these proposals that our law of culpable homicide delivers justice for families.

**General**

Q24. Do you have any other comments or suggestions on the proposal?

No

